

**FEDERAL COMMUNICATIONS COMMISSION**  
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**WASHINGTON, DC 20554**

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**APPLICATION STATUS:** (202) 418-2730  
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June 4, 2008

Kenneth C. Howard, Jr., Esq.  
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1050 Connecticut Avenue NW, Suite 1100  
Washington, DC 20036-5304

Re: WNDD(FM), Silver Springs, Florida  
Ocala Broadcasting Corporation, L.L.C.  
Facility ID Number 1099  
File No. BPH-20070713AEN

Dear Counsel:

This letter is in reference to “one-step” minor change application BPH-20070713AEN (“Application”) filed by Ocala Broadcasting Corporation, L.L.C. (“Ocala”), licensee of FM station WNDD, Silver Springs, Florida, which proposes a co-channel upgrade to Class C3 from Class A for WNDD pursuant to Section 73.203(b).<sup>1</sup>

**Background.** WNDD is licensed (File No. BLH-19950501KA) to operate on channel 238A at Silver Springs, Florida, using 6.0 kilowatts (“kW”) effective radiated power (“ERP”) and 100 meters antenna radiation center height above average terrain (“HAAT”). In the Application, Ocala proposes WNDD operation on channel 238C3 at Silver Springs, Florida, using 9.8 kW ERP and 102 meters antenna radiation center HAAT at the licensed WNDD transmitter site.<sup>2</sup> At the licensed WNDD transmitter site, the proposed WNDD Class C3 facilities do not meet the minimum distance separation requirements of Section 73.207.<sup>3</sup> To show compliance with the Note to Section 73.203,<sup>4</sup> which requires a “one-step” upgrade applicant to specify a suitable assignment site that fully complies with both the minimum distance separation

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<sup>1</sup> See 47 C.F.R. § 73.203(b).

<sup>2</sup> There is a slight difference between the geographic coordinates (29° 16' 55" North Latitude, 82° 02' 50" West Longitude, (NAD 27)) and site elevation (16 meters AMSL) of the licensed WNDD transmitter site and the geographic coordinates (29° 16' 57" North Latitude, 82° 02' 49" West Longitude, (NAD 27)) and site elevation (18 meters AMSL) specified in the Application. Ocala is seeking correction of the licensed transmitter site coordinates and licensed site elevation in the Application reportedly as a result of a recent survey of the site.

<sup>3</sup> See 47 C.F.R. § 73.207.

<sup>4</sup> See *id.* at § 73.203.

requirements of Section 73.207<sup>5</sup> and the principal community coverage requirements of Section 73.315<sup>6</sup> when its proposed transmitter site does not meet the minimum distance separation requirements of Section 73.207.<sup>7</sup> Ocala specified an assignment site in the Application.<sup>8</sup> The specified assignment site meets the minimum distance separation requirements of Section 73.207.<sup>9</sup> However, as Ocala recognizes in the Application, using the standard FCC contour prediction methodology of Section 73.313,<sup>10</sup> assumed maximum permissible Class C3 facilities located at the specified assignment site are not predicted to provide 70 dBμ or greater signal strength over 100 percent of the community of Silver Springs, Florida. To prove that the required principal community coverage of Silver Springs can be achieved by assumed maximum permissible Class C3 facilities located at the specified assignment site, Ocala submitted a supplemental principal community coverage showing based on the National Bureau of Standards Technical Note 101 (the Longley-Rice prediction method). Based on its use of the Longley-Rice prediction method, Ocala stated in the Application that assumed maximum permissible Class C3 facilities at the specified assignment site will provide 70 dBμ or greater signal strength to 100 percent of the principal community of Silver Springs.

**Discussion.** The Commission has permitted the use of supplemental showings in rulemaking proceedings in very limited circumstances to demonstrate required principal community coverage from an allotment site.<sup>11</sup> “One-step” upgrade applicants wishing to rely upon supplemental showings to prove principal community coverage from an assignment site must meet the same requirements, the first of which is a showing of reasonable assurances of site availability for the proposed assignment site. In *Woodstock*, the Commission defined reasonable assurances of site availability as the petitioner taking the affirmative steps of securing assurance from the proposed site owner that the site is available and obtaining Federal Aviation Administration (“FAA”) approval for a tower at the site. Ocala failed to show that it had secured the reasonable assurances of site availability necessary to be eligible to use a supplemental study to prove required community of license coverage from its proposed assignment site.

Despite Ocala’s failure to show reasonable assurance of assignment site availability, we sent the supplemental principal community showing submitted by Ocala to the Office of Engineering and Technology (“OET”) for evaluation. OET’s analysis, using the Longley Rice prediction method and seven radials spaced two degrees apart over the community of Silver Springs as depicted in the Application, shows that assumed maximum permissible Class C3 facilities located at the specified assignment site are predicted to provide 70 dBμ or greater signal strength to only 90 percent of the community of Silver Springs, Florida. Since 70 dBμ or greater signal strength cannot be provided to 100 percent of the principal community of Silver

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<sup>5</sup> See *id.* at § 73.207.

<sup>6</sup> See *id.* at § 73.315.

<sup>7</sup> See *id.* at § 73.207.

<sup>8</sup> The assignment site is located at geographic coordinates 29° 26' 09" North Latitude, 82° 03' 41" West Longitude, (NAD 27).

<sup>9</sup> See *id.* at § 73.207.

<sup>10</sup> See *id.* at § 73.313.

<sup>11</sup> See *Woodstock and Broadway, VA*, 3 FCC Rcd 6398 (1988) (“*Woodstock*”); *Elkins, West Virginia*; *Mountain Lake Park and Westernport, Maryland*, 7 FCC Rcd 5527 (1992), (“*Elkins*”) Paragraph 18; *Creswell, Oregon*, 3 FCC Rcd 4608 (1988), *recon. denied*, 4 FCC Rcd 7040 (1989); and *Bald Knob and Clarendon, Arkansas*, 6 FCC Rcd 7435 (1991).

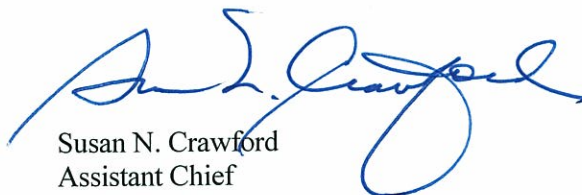


Springs by assumed maximum permissible Class C3 facilities located at the specified Channel 238C3 assignment site, the Application is deficient and must be amended to specify an assignment site that meets both the minimum distance separation requirements and the principal community coverage requirements of the Commission's rules.

**Actions.** Pursuant to Section 73.3522,<sup>12</sup> "...an applicant whose application is found to meet the minimum filing requirements, but nevertheless is not complete and acceptable, shall have the opportunity in the period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, Section 73.3564<sup>13</sup> states that, "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment." See Appendix B in the *Report and Order* in MM Docket No. 91-347. This letter constitutes the one opportunity for corrective amendment pursuant to Section 73.3522.<sup>14</sup>

Further action on the Application will be withheld for a period of 30 days from the date of this letter to provide the applicant an opportunity to amend. Failure to correct all tender and acceptance defects within this time period will result in the dismissal of the application with no further opportunity for corrective amendment pursuant to Section 73.3564.<sup>15</sup> Please note, any amendment must be submitted in the same manner as the original application.

Sincerely,



Susan N. Crawford  
Assistant Chief  
Audio Division  
Media Bureau

cc: Ocala Broadcasting Corporation, L.L.C.  
Joseph M. DiPietro, P.E.

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<sup>12</sup> See *id.* at § 73.3522.

<sup>13</sup> See *id.* at § 73.3564.

<sup>14</sup> See *id.* at § 73.3522.

<sup>15</sup> See *id.* at § 73.3564.